

TEXAS DEPARTMENT OF PUBLIC SAFETY

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COMMISSION
A. CYNTHIA LEON, CHAIR
CARIN MARCY BARTH
ADA BROWN
ALLAN B. POLUNSKY

December 18, 2012

Via First Class Mail

Shawn Musgrave
MuckRock News
Dept MR 2221
PO Box 55819
Boston, MA 02205-5819

RE: Public Information Request for information about aerial drones (PIR # 12-3969)

Mr. Musgrave:

The Department received your above-referenced request on November 27, 2012. The Department has located records responsive to your request; however, we believe some or all of the records may be excepted from required public disclosure at this time. We are seeking a ruling from the attorney general's office with respect to disclosure of these records, and a copy of our request letter is enclosed. You will be notified directly by the attorney general's office when a ruling is issued. The enclosed records are the only ones we believe are available to you at this time. These records are provided to you at no cost.

If you have any questions regarding this request, please submit them in writing via facsimile to (512) 424-5716, via email to OGC.Webmaster@dps.texas.gov, via mail to the address in the letterhead, or in person at our offices at 5805 N. Lamar Blvd. in Austin. Thank you.

Cordially,

A handwritten signature in cursive script that reads 'Molly Cost'.

Molly Cost
Assistant General Counsel

cc: The Honorable Greg Abbott
Attorney General of Texas
Open Records Division
209 West 14th Street, 6th Floor
Austin, Texas 78701

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December 18, 2012

Via Hand Delivery

The Honorable Greg Abbott
Attorney General of Texas
Open Records Division
209 West 14th Street, 6th Floor
Austin, Texas 78701

RE: Public Information Request for information about aerial drones (PIR # 12-3969)

DATE REQUEST FOR INFORMATION RECEIVED:

11/27/2012

DATE REQUEST FOR RULING SUBMITTED TO ATTORNEY GENERAL:

12/11/2012

DATE RESPONSIVE RECORDS SUBMITTED TO ATTORNEY GENERAL:

12/18/2012

Dear Attorney General Abbott:

The Department of Public Safety received the above-referenced request for information from Shawn Musgrave on November 27, 2012. Some responsive records are being released to the requestor, however, as previously noted; we believe some of the requested information is excepted from required public disclosure pursuant to section 552.108 of the Government Code.¹

The Department believes this information is excepted from required public disclosure pursuant to section 552.108(b)(1) of the Government Code, which states:

- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:
 - (1) release of the internal record or notation would interfere with law enforcement or prosecution.

Section 552.108(b)(1) is intended to protect "information which, if released, would permit private citizens to anticipate weaknesses in [a law enforcement agency], avoid detection, jeopardize officer safety, and generally undermine [law enforcement] efforts to effectuate the laws of this State." *City of Ft. Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.). Your office has stated that under the statutory predecessor to section 552.108(b), a

¹ The Department is no longer asserting that responsive records should be protected under section 552.101 of the Government Code.

governmental body may withhold information that would reveal law enforcement techniques or procedures. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 456 (1987) (release of forms containing information regarding location of off-duty police officers in advance would unduly interfere with law enforcement), 413 (1984) (release of sketch showing security measures to be used at next execution would unduly interfere with law enforcement), 409 (1984) (if information regarding certain burglaries exhibit a pattern that reveals investigative techniques, information is excepted under predecessor to section 552.108), 341 (1982) (release of certain information from Department of Public Safety would unduly interfere with law enforcement because release would hamper departmental efforts to detect forgeries of drivers' licenses), 252 (1980) (predecessor to section 552.108 is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted).

Revealing the type of records submitted for your review would provide wrong-doers, drug traffickers, terrorists, and other criminals with invaluable information concerning the use of specialized equipment in investigation and detection of crime, as well as the techniques employed in the use of this equipment, allowing these persons to conceivably evade the use of this equipment and impede the efforts of the Department to prevent criminal activity. Consequently, the Department believes this portion of the responsive information should be excepted from required public disclosure.

Please find enclosed the request from Shawn Musgrave, the notice of our request for a ruling sent to the requestor, and a representative sample of the records we wish to except from required disclosure. Please feel free to contact me at (512) 424-2890 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Molly Cost".

Molly Cost
Assistant General Counsel

Enclosure(s)

cc: Shawn Musgrave
MuckRock News
Dept MR 2221
PO Box 55819
Boston, MA 02205-5819